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Division of Wyeth, Walter Wardrop, and Michael
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HOWARD HENRY,

Plaintiff,

v.

WYETH PHARMACEUTICALS, INC., WALTER
WARDROP, ANDREW SCHASCHL, and
MICHAEL McDERMOTT,

Defendants.

05-CV-8106 (RCC) (DFE)

**DECLARATION OF WALTER
WARDROP IN SUPPORT OF
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

I, Walter Wardrop, declare:

1. I am employed by Wyeth Pharmaceuticals, a Division of Wyeth ("Wyeth"), as Director of Planning and Packaging Operations. I make this declaration based on my own personal knowledge.

2. From approximately July 2000 until early 2004, I was Howard Henry's direct supervisor. In 2003, he often completed tasks late or simply failed to complete them at all. This became a major problem for me and other managers who depended upon Mr. Henry to complete tasks on time.

3. Throughout 2003, I received complaints from Mr. Henry's co-workers and other managers that Mr. Henry was not getting work done on a timely bases, was missing deadlines, needed to receive a great deal of follow-up in order to complete tasks, and needed intervention from managers to get things accomplished.

4. In 2003, in addition to having Mr. Henry handle the routine maintenance issues as the Production Engineer for the department, Mr. Henry also was responsible for working with a project team on a new piece of equipment known as the Continuous Tablet Coater ("CTC"). As the engineer on this project, Mr. Henry was responsible for a number of tasks designed to improve the CTC equipment and process. Mr. Henry did not perform this role well. Projects relating to the CTC, for which Henry was responsible, were often delayed, late, or not completed. Due to delays, unresolved problems, and a lack of confidence from upper level management that Mr. Henry could successfully complete projects relating to the CTC on time, Andrew Schaschl, my direct supervisor, instructed me on at least two occasions to intervene and drive projects for which Mr. Henry was responsible to completion.

5. On September 3, 2003, I gave Mr. Henry a mid-year review and discussed with Mr. Henry the performance issues identified in the review. The mid-year review for 2003 identified a number of "positives" and several areas to focus on for the remainder of 2003, including completing certain projects by year-end and improving attendance. In an effort to help develop Mr. Henry's career, I also offered to train Mr. Henry to be a backup for me as the Department Head when I was on vacation, but Mr. Henry never responded.

6. I also mentioned in the mid-year review that I had received reports from the Medical Department that, when Mr. Henry went to the Medical Department to get his allergy shots, he had been observed hanging around for extended periods of time (up to an hour and a

half) and that I had received a number of reports that he had not been responding to pages. Mr. Henry explained that he had lost track of time when he went to get his allergy shots and that the paging system had not been working, and I noted his response on the mid-year review.

7. The mid-year review also directed Mr. Henry that, when he was preparing his Self Appraisal and Goals and Objectives (the "Self Appraisal"), he should quantify and be specific with his accomplishments, and he should provide a summary of work performed and value-added to the business. The Self Appraisal was a tool used by employees to track their goals and accomplishments each year, and I relied upon this document to help me prepare the employees' annual performance reviews. I needed to have the Self Appraisal form for each employee I supervised before October 1, 2003, so that I would have sufficient time to review these documents and determine the employees' performance ratings for their annual performance reviews before October 10, 2003, the date managers conducted their rating review meeting. At the rating review meetings, the managers meet to discuss the performance of all the employees they supervise and to collaboratively assign and calibrate performance ratings to each of the employees. Ratings are finalized at this meeting.

8. Despite asking Mr. Henry to submit his Self Appraisals before October 1, 2003, Henry did not submit his Self Appraisal before the October 10, 2003 rating review meeting, and I had to assign Henry's rating at that meeting without the benefit of Henry's Self Appraisal.

9. Shortly after October 10, 2006, Mr. Henry approached me to discuss his performance review and his Self-Appraisal. Mr. Henry explained he felt that completing the Self Appraisal in the previous year did not help him get the rating he wanted in the previous year. As part of a discussion about Mr. Henry using his time most efficiently, I told him "he should focus

on 'the work.' At this point in time, Mr. Henry had already missed the deadline for completing the Self Appraisal, and I just wanted Mr. Henry to focus his time on completing his work assignments, many of which were behind schedule, because submitting the Self Appraisal at that late date would not have any impact on his rating at that point.

10. Mr. Henry's performance did not improve after his mid-year review. For example, he allowed an important commitment to go overdue while he was on vacation, and I had to step in to complete this commitment. In addition, I had to complete at least one other commitment for Mr. Henry because he had failed to complete certain training necessary to complete this commitment, despite the fact that he had started the training more than a year earlier.

11. In preparing Henry's 2003 performance review, I pointed out both the strengths and weaknesses of Mr. Henry's performance. Given Mr. Henry's ongoing problems completing projects and meeting deadlines in 2003, I believed that Mr. Henry did not deserve a rating higher than a "3" or "Solid Performer."

12. On December 17, 2003, I met with Mr. Henry and gave him his 2003 performance review and advised him that he had been selected to fill a position as the Packaging Supervisor. Mr. Henry was visibly upset and excused himself to go for a walk.

13. The Packaging Supervisor position could have been a career-building developmental opportunity for Mr. Henry. In this position, Mr. Henry would have been responsible for direct supervision a number of employees and for maintaining the operation of the packaging line. He would have the opportunity to use his engineering skills and experience to devise innovative improvements and solutions to problems to increase productivity and efficiency, drive cost efficiencies, and improve the overall operation.

14. On January 6, 2003, Mr. Henry approached me to discuss his 2003 performance review and assignment to the Packaging Supervisor position. Mr. Henry brought his completed Self Appraisal to this meeting. I reviewed the Self Appraisal and told Mr. Henry that I wished I had the Self Appraisal when I prepared his 2003 performance review. However, even if Mr. Henry had submitted his Self Appraisal on time so that I could have considered it in preparing his performance review, it would not have changed the overall rating that I gave him. In any event, his failure to submit the Self Appraisal on time was just another example of Mr. Henry's failure to complete tasks on time.

15. After this meeting with Mr. Henry, I reviewed Mr. Henry's 2003 performance review and decided to revise some of the language in the review. I did not change my opinion on what I had previously written in the review. I changed the language in the review because I felt that I already had communicated Mr. Henry's performance issues to him so that he could focus on improving these issues, and so that the references to Mr. Henry's performance issues would not become part of his permanent record.

16. I understand that Mr. Henry spoke to a number of other managers and Joanne Rose, an Associate Director, Human Resources, regarding his 2003 performance review. In order to provide Ms. Rose with background information regarding Mr. Henry's 2003 performance review and his assignment as part of the Organizational Cascade, I prepared the attached memorandum for Ms. Rose and provided it to her in advance of a meeting we had with Mr. Henry on January 16, 2006.

Executed on October 30, 2006 at Pearl River, New York.

I declare under penalty of perjury that the foregoing is true and correct.

 10/30/06
Walter Wardrop

EXHIBIT 1

Re: Mr. Howard Henry, Dept. 640 Production Engineer
Summary of the 2003 Review Process and Org-Cascade

To: Joanne Rose
Associate Director, HR

From: Walter Wardrop
Associate Director, Mfg. Train 1
1/15/04

- Performance Objectives for 2003 were developed at the beginning of the year.
- 9/3/03: I conducted Mr. Henry's mid-year review. Performance issues, opportunities for improvement and career growth were discussed. Expectations for what to include in his Self Appraisal and Goals and Objectives Spreadsheet were documented. At that time he was rated a "Solid Performer." See Attached.
- At that time I also asked him what his career aspirations were and offered to help develop his career by expanding his training and areas of responsibility, such as training him to be a backup for me as Department Head when I was on vacation. He did not reply at that time, saying he needed to pray about it. He never did reply.
- 9/8/03: An email was sent to all staff members that Self Appraisals and Goals and Objectives "must be completed and turned in [to me] by October 1st."
- 10/2/03: I sent out a follow up email stating that I had not received either from Mr. Henry. Howard was on vacation at that time, returning Oct. 6th or 7th. (I was on vacation the 6th)
- 10/10/03: The Mgt. Team conducted the 2003 Ratings Review Meeting. The performance and contributions of each staff member was discussed and ratings were collaboratively decided. Mr. Henry received the same review process and treatment as every other staff member at that meeting, which was officiated by Human Resources. Every staff member was rated based not only on his or her own accomplishments, but also in contrast to the contributions to their peers [in their classification] and others in the organization.
- Subsequently, Mr. Henry approached me about writing his Self Appraisals and Goals and Objectives. (I can not confirm the date, but believe it to be the week of Oct. 13th) By this time, he had missed the due date and his rating had been submitted. Howard discussed the effort he put into 2002's Self Appraisal and Goals and Objectives and that he felt that he did not get the rating he deserved last year (he received a "4"). During the course of that conversation, as we discussed the best use of his time, I stated, "he should focus on 'the work,'" which he [seems to have] interpreted as being excused from writing a review. In fact, at this point, I wanted him to focus his time on completing assignments and not on writing a Self Appraisal since it was too late to have any impact his rating, nor I did want to mislead him into believing that it would have any impact at this point.
- I wrote his Performance Review based on the quality of his work, the data available to me at the time, the Company Values, and feedback I received from coworkers throughout the year. I also considered the nature of his performance

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subsequent to our discussions at the mid-year review. As with any balanced review, subjective and objective criteria were employed. Mr. Henry's positive qualities were documented on his mid-year and end-of-year reviews; however, I also received adverse feedback throughout the year about timeliness of his work, the follow-up required to get information and complete tasks, and the need for management intervention to get things done. This feedback came from his co-workers within Manufacturing and from support groups. At his mid-year review I discussed this perception and asked him to take the lead on the Weekly CTC Meeting as a method of demonstrating his ability to perform a "leadership" role in the organization and for his career development. During subsequent discussions, Mr. Henry has accused me of creating that perception among his co-workers as opposed to conveying the message. He stated that if people had the perception that he was late on assignments, "...they did not get it from me."

- Due to ongoing delays, unresolved problems, and a lack of confidence from upper management that Howard could successfully complete projects on time, I was instructed on at least two occasions to intervene and drive the projects to completion: The CTC Cleaning Qualification and the Weigh Belt problems.
- 12/8/2003: The Managers-elect went off-site to select their direct reports as the next phase of Org. Cascade. At that meeting, as the new Train 2 Manager, I elected to retain Mr. Jean Colas as the Train 2 Production Engineer. My replacement on Train 1 selected Mr. Honario "Jun" Ordonez as the Train 1 Production Engineer. At this point in the process, Mr. Henry was available to any manager who wanted to select him for their organization. Late in the day, he still had not been selected, so someone (I don't know who [not me]) selected him as a midnight shift Packaging Supervisor. His review and rating had no bearing on his assignment, since I did not make the selection, nor had his review been conducted yet or made public.
- Over the next few days I asked Packaging Manager-elect Derek Burt to re-assign Mr. Henry to the day shift since I knew he had just gotten married and I did not want to disrupt his life. Mr. Burt agreed to make the move even though it impacted another employee who had previously been selected for the day shift position.
- 12/17/2003: I conducted Mr. Henry's Performance Review and informed him of his new post Org-Cascade assignment. He was extremely unhappy with both his rating and his new assignment. He felt he had not been received the rating he deserved and that [as an Engineer] he should not have been assigned to be a Packaging Supervisor. Mr. Henry was visibly upset and excused himself to "go for a walk." His review was not signed at that time, nor did he request a copy.
- 12/18/03 - 1/4/04: I was on vacation.

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- 1/4/04: Upon my return, Mr. Henry approached me to discuss his review and job assignment. At this time, he had with him a completed Self Appraisal, his Goals and Objectives and a Project Tracking Spreadsheet. I told Mr. Henry that I could not change his "rating." (He maintains that I said I would not change his "review.") The issue was not resolved at that time. I did not read the documents and he took his copies with him.
- 1/6/04: Another follow-up discussion with Mr. Henry. At that time, I read his documents and told him they were well written and that I wished he had submitted them on time for consideration at the Ratings Review Meeting. Mr. Henry maintained that he had not been and that fairly reviewed and that I did not fairly "represent" him. He stated that he would proceed with an official rebuttal.
- Subsequent to our conversation, I reviewed what I had written in his review and decided to revise some of the wording. I did not change my opinion on what I wrote; however, I did rate him as a "Solid Performer" and since this is a part of his permanent record, I emphasized his positive qualities and values in the hope that he would work on continuously improving his performance without having to document "developmental issues" in a manner that could have an adverse impact on his career and future job opportunities. I made no changes in the numbers. I also communicated to Mr. Henry that the changes would be made.
- 1/9/04: Mr. Henry met with Mr. Andy Schaschl, Sr. Director of Manufacturing – my manager.
- 1/12/04: Mr. Henry met with Mrs. Joanne Rose, Associate Director of Human Resources. Subsequently, I was asked to provide documentation supporting my review and the rating to Mrs. Rose, which I did that afternoon.
- 1/13/04: Mr. Henry met with Mr. Mike McDermott, Site Manager.

Note #1: At each of these meetings, Mr. Henry presented his Self Appraisal, Goals and Objectives and Project Tracking Sheet as evidence of the work he had performed and not received recognition. Yet, Mr. Henry did not submit that documentation to me in time to be considered for the review and rating process. In fact, to date, Mr. Henry has not submitted any of the documents to me for inclusion in his permanent record.

Note #2: Additionally, the work he does reference in the documents reflects the basic expectation for the Production Engineer position. It is his role and responsibility to keep the equipment running, optimize equipment and processes and respond to emergencies. It is the completion of these tasks that make him a "Solid Performer." Anything less would warrant "Needs Improvement." Nothing presented proves that Mr. Henry exceeded the expectation for a Production Engineer or should be considered "Outstanding" – a "role model."

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- Mr. Henry has spoken to Mr. Bob Bracco, Mr. Joe Vitanza and several supervisors and other Wyeth employees regarding his review, rating and his job assignment and his displeasure with them.
- 1/12/04: I invited Mr. Henry to come into my office. I expressed to him that I was sorry that he is so unhappy with his review and job assignment and that after years of working together, I wished things were different. I was disappointed that our working relationship was ending so unpleasantly. I reiterated my friendship for him and that he was a valued employee. I wished him well and much happiness for the future. He shared some kind words and thoughts with me and we shook hands. At that time I asked him if he wanted to see his review, but he said I could just forward it to HR unsigned – which I did.

Note #3: Packaging requested that I release Mr. Henry to begin training in Packaging on 1/12/04. I spoke to the Packaging Managers and asked them to be patient for a few days to allow Mr. Henry due process until there was a final decision on the outcome of the rebuttal. They agreed.

Mr. Henry strongly believes that he did not receive the rating he deserved, stating that it was “a slap in the face” and that he will not accept it and will take it as far as he needs to. During one of our conversations he commented “some day I would have to sit in front of my maker and defend my actions.” He maintains that statements I made about the timeliness of his work and the “perception” of his performance by others is unsubstantiated. In our many conversations about his review, I tried several ways to clarify, so he has accused me of being dishonest and inconsistent - that I keep “changing my story.” I have been honest with Mr. Henry in regards to the feedback I have received from others, but I cannot and will not betray the confidentiality of my position by naming names and sharing confidential and/or inappropriate information with him. He maintains that I did not recognize all of his accomplishments. The undisputed fact is that he did not submit them for consideration. There was a business reason for that due date, presenting them now – 3 months later – is inconsequential. Furthermore, there is no guarantee that his rating would have been any different had the documentation been submitted; however, his failure to submit them underscores my comments regarding Mr. Henry’s failure to complete tasks according to deadlines. There is an established review process that applies to all Wyeth exempt employees, including Mr. Henry. The expectation was clearly communicated to him, as documented on the Mid-Year Review and in emails. He chose to not to follow the established procedure and now, in hindsight, is claiming an injustice has been done to him. In all of our conversations, he has yet to take personal accountability for his actions regarding his review. While I support an employee’s right to challenge his review, in this case Mr. Henry openly defied the expectation and is now challenging the fairness of the system.

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At his Mid-Year Review, Mr. Henry was rated as a "Solid Performer." He was afforded the opportunity to use the time between the mid-year and end-of-year reviews to improve his performance, yet since then he allowed a Commitment to go overdue while he was on vacation – which I had to personally close out, he failed to submit his Self Appraisal and Goals as directed and I had to accept a Commitment for him in Trackwise since he had never completed his Trackwise training, despite having started his training more than a year earlier.

In closing, as his manager, I stand by the rating and review I gave Mr. Henry. Other managers participated in the review process and can verify that he was treated fairly and equally. He was a "Solid Performer." It is my opinion that his performance and accomplishments did not meet the established criteria for a rating of "4" or "5" and his rebuttal has not provided evidence to the contrary.

Since the rebuttal process began, Mr. Henry and I have not discussed the review or the job assignment, maintaining a professional, working relationship

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**Summary of Howard Henry's
2003 Progress Review**

Employee Background

- 10 year employee
 - 6 years Research
 - 4 years Consumer Healthcare
- Consumer Healthcare
 - Held position of Production Engineer all 4 years
 - Walter Wardrop, AD, Train - 1 Centrum, was his manager for all 4 years
- Ratings
 - 2000: 3
 - 2001: 4
 - 2002: 4
 - 2003: 3

2003 Performance Review

- Mid-Year Review was conducted
 - Employee was rated a 3 at mid-year
- Employee was instructed at mid-year that the following needed to be completed by year's end:

Project	Completed to Date
Establish PMO timelines	No
Install shear mixers in solution tanks	No
Increase the dust collection fan speed on weigh belt	No
Fabricate, test and purchase dust removal system for CTC	No
Complete installation of plastic sheeting around CTC solution tanks	Yes
Revise SOP's as needed for Single Pass Centrum	No
Redesign Best Shaker to prevent foreign objects from entering blender	No
Participate in all remaining CTC projects, as assigned	Yes
Re-establish a formal tracking sheet for reporting and documenting work performed and conduct a monthly review with department Manager	No

Note: SOP's for Single Pass Centrum is a highly critical project.

- Was instructed at mid-year to submit a self-appraisal for the year end review. It was not submitted.
- Attendance: 11 days absent in 2003

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--Note: the 2.5 month family leave referred to was actually taken as a Medical Leave and it was not taken in 2003. The leave was taken from October 2002 with a return to work date of January 6, 2003.